



2023/2426

6.11.2023

COUNCIL DECISION (EU) 2023/2426

of 23 October 2023

on the position to be taken on behalf of the European Union at the fifth meeting of the Conference of the Parties to the Minamata Convention on Mercury as regards the adoption of a decision establishing thresholds for mercury-contaminated waste in accordance with that Convention

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Minamata Convention on Mercury (the 'Convention') was concluded by the Union by Council Decision (EU) 2017/939 ⁽¹⁾ and entered into force on 16 August 2017.
- (2) Pursuant to Decision MC-1/1 on Rules of Procedures, adopted by the Conference of the Parties to the Convention ('COP') at its first meeting on 24–29 September 2017, the Parties to the Convention (the 'Parties') are to make every effort to reach agreement on all matters of substance by consensus.
- (3) The COP, during its third meeting on 25–29 November 2019, adopted Decision MC-3/5 on thresholds for waste consisting of or containing mercury or mercury compounds, as referred to in Article 11(2), points (a) and (b), of the Convention, and requested that the group of technical experts established by the COP at its second meeting on 19–23 November 2018 develop thresholds for waste contaminated with mercury or mercury compounds referred to in Article 11(2), point (c), of the Convention ('mercury-contaminated waste'), including for tailings from mining other than primary mercury mining.
- (4) The COP, during the second segment of its fourth meeting on 21–25 March 2022, was not able to adopt a decision on thresholds for mercury-contaminated waste. Rather, Decision MC-4/6 requested that the group of technical experts continue its work primarily by electronic means and that it hold one face-to-face meeting of sufficient duration to address mercury-contaminated waste, subject to the availability of resources, and that it report on its work to the COP at its fifth meeting to be held from 30 October to 3 November 2023.
- (5) It is appropriate to establish the position to be taken on the Union's behalf at the fifth meeting of the COP, as the proposed decision establishing thresholds for mercury-contaminated waste, if adopted, will have legal effects, since the Parties will have to take measures to implement it at national or regional level.
- (6) The Union contributed significantly to the development of the waste provisions of the Convention and to the intersessional expert work that was launched by Decision MC-3/5 and that led to the recommendations. The Union *acquis* requires that all mercury waste referred to in Article 11(2) of the Convention, including mercury-contaminated waste, be managed without endangering human health and without harming the environment, irrespective of its mercury content.
- (7) The Union should only support the adoption of a decision by the COP that is consistent with the Union *acquis*,

⁽¹⁾ Council Decision (EU) 2017/939 of 11 May 2017 on the conclusion on behalf of the European Union of the Minamata Convention on Mercury (OJ L 142, 2.6.2017, p. 4).

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf at the fifth meeting of the COP to the Minamata Convention on Mercury shall be to support the adoption of a decision establishing thresholds for mercury-contaminated waste that is consistent with the Union *acquis*.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Luxembourg, 23 October 2023.

For the Council
The President
L. PLANAS PUCHADES
